

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THOMAS E. JONES, II,)	
	Plaintiff,) Civil Action No. 06-1083
)	
v.)	Judge Lancaster
)	Magistrate Judge Lenihan
WILLIAM SCHOUUPPE and FRANK)	
DERAMOS,)	
	Defendants.)

MEMORANDUM ORDER

Plaintiff's Complaint was filed on September 11, 2006, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

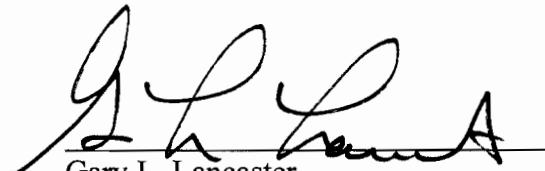
The Magistrate Judge's Report and Recommendation (Doc. No. 14) filed on November 28, 2007, recommended that the Defendants' Motion to Dismiss (Doc. No. 11) be granted in part and denied in part. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrate Judges, that they had ten (10) days to file any objections. No objections have been filed. After review of the pleadings and the documents in this case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 14 day of January, 2008;

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (Doc. No. 11) is

granted in part and denied in part. Defendants' Motion to Dismiss Plaintiff's claims regarding access to the courts, and Plaintiff's Eighth Amendment conditions of confinement claims regarding new clothing, shoes, delays in receiving toilet paper, soap, toothpaste, and deodorant, and the necessity of eating in cells when seating in day room was limited is **GRANTED**. Defendants' Motion to Dismiss Plaintiff's Eighth Amendment conditions of confinement claim regarding failure to provide a diabetic friendly diet is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 14) of Magistrate Judge Lenihan, dated November 28, 2007, is adopted as the Opinion of the Court.



Gary L. Lancaster
United States District Judge

cc: The Honorable Lisa Pupo Lenihan
United States Magistrate Judge

Thomas E. Jones, II
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Pro se

All Counsel of Record
Via electronic filing